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The Honorable Marc Barreca
Chapter 13

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

IN RE:)	
)	Bankruptcy Case No. 12-19822
SHANNON KEELER,)	
)	
Debtors)	
_____)	
)	Adversary Case number:
SHANNON KEELER,)	
Plaintiff,)	
)	
v.)	
)	
WELLS FARGO NA,)	
and John Does 1-3,)	
Defendants)	

Plaintiff, Shannon Keeler, alleges and complains against the Defendant, Wells Fargo NA,
and John Does 1-3 as follows:

COMPLAINT- 1

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PARTIES

1. Plaintiff and Debtor is a resident of, King County, in the State of Washington.
2. Defendant, Wells Fargo NA is doing business in State of Washington; and this cause of action arose in the State of Washington.
3. It is believed that Wells Fargo NA is a Depository Institution.

JURISDICTION & VENUE

4. This action is a core proceeding under § 28 U.S.C.157(b)(2)(I).
5. This court has jurisdiction over this action pursuant to 28 U.S.C. 157(a) and 1334(b).
6. Venue is proper under § 28 U.S.C. 1409.
7. This action is brought pursuant to Bankruptcy Rule 7001(2).

FACTUAL BACKGROUND

8. Plaintiff, Shannon Keeler (hereinafter referred to as “Plaintiff”) has borrowed money from the following financial institutions and has pledged her principal residence located at 162 Cougar Ridge Road NW in Issaquah, WA. The present balance is indicated below:

- a. **First Mortgage – Wells Fargo NA**

- i. Balance as of the filing date - \$319,776.00

- b. **Second Mortgage – Wells Fargo NA**

- i. Balance as of filing date - \$79,889.00
- 9. The fair market value of the concerned real property and improvements is believed to be less than the 1st mortgage alone. A comparative market analysis report is attached as Exhibit A. The King County Tax Assessment is attached as Exhibit B.
- 10. The 2nd mortgage held by Wells Fargo NA is wholly unsecured.

FIRST CAUSE OF ACTION

- 11. Plaintiff incorporates herein paragraphs 1 through 10, as is specifically enumerated herein.
- 12. Pursuant to U.S.C. 506(a), any claim of Wells Fargo NA is a "wholly under-secured claim"¹. The claim is only secured to the extent of the value of the creditor's interest in the property, which in this case is none - zero.
- 13. That because Wells Fargo NA's 2nd Deed of Trust is not an allowed secured claim under U.S.C. §506 (d) it is void and the claim should be "stripped-off"².

¹An "under-secured" claim is one supported by collateral valued at less than the amount of the claim. A "wholly under-secured" means that the supporting collateral has no remaining value after satisfaction of senior encumbrances. In order for a mortgage to be stripped-off, the mortgage must be "wholly unsecured" rather than simply under-secured. (See *In re Ronald Barte*, 212 F.3d 277 (5th Cir. 2000).

²"Cramdown" is a term of art used to refer to the bifurcation of a claim into secured and unsecured portions pursuant to 11 U.S.C. § 1325(a)(5) [which] allows a Chapter 13 debtor to reduce or eliminate the unsecured portion of the claim." *In re Perry*, 235 B.R. 603, 605n.1 (S.D. Tex. 1999). In effect the secured creditor's claim is limited to the market value of the collateral to which the lien is attached. See *Lomas Mortgage, Inc. v. Louis*, 82 F.3d 1, 1 n.1 (1st Cir. 1996). "When a claim is crammed down to zero, this is referred to as 'strip off' of a claim." *In re Perry*, 235 B.R. at 605 n.1; *In re Ronald Barte*, 212 F.3d 277, (5th Cir. 2000), Page 4, Footnote 2.

PRAYER FOR RELIEF

1. That the fair market value securing the collateral of Wells Fargo NA is such that the value of the creditor's interest is zero.
2. That the Trust Deed in favor of Wells Fargo NA should be stripped from said real property.
3. For further relief as the Court deems just and proper under the circumstances, including, including costs of this action and attorney's fees if appropriate.

Dated this 10th day of January, 2013.

/s/ Angela M. Low
Angela M. Low
Attorney for the Debtor